D.B. CIVIL SPECIAL APPEAL(W)NO.550/2006

Smt. Kamlesh
Vs.
State of Rajasthan and others

DATE OF ORDER :: 01-02-2007

HON'BLE THE CHIEF JUSTICE SHRI S.N.JHA
HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Shri Azad Ahmed, for the appellant.
Shri B.L. Avasthi, Addl.G.A. for the State.

This special appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging the order dated 28.8.1991 by which her services were terminated.

Facts of the case are that appellant was appointed as teacher in the S.T. Category on 24.2.1991. It transpired later that her appointment in the S.T. category was not regular because she belongs to 'Meel' caste but on the assumption that she belongs to 'Bheel' community which comes under the S.T. Category, she had been appointed. In the circumstances, her services were terminated on 28.8.1991.

By order dated 14.12.2006 we asked the State to file affidavit stating the marks/percentage at which candidates in the OBC category had been appointed. The

order was passed in view of the submission of the counsel that 'Meel' caste comes under the OBC category, and the appellant could be appointed in the OBC category, if not in the S.T. Category. In the additional affidavit filed on behalf of the State, it has been stated that there was no reservation for the OBC category at the relevant time. The reservation for OBC was introduced only in 2001.

The appointment of the appellant admittedly was in the S.T. category and there being no dispute that she does not belong to S.T. category, the order impugned terminating her services cannot be said to be illegal and arbitrary. We thus find no infirmity in the order of the learned Single Judge dismissing the writ petition of the appellant.

The appeal is dismissed.

[MOHAMMAD RAFIQ],J. **[S.N.JHA],CJ.**

Praveen